UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,639	12/04/2001	Jimmy D. Saunders	J30710US	8246

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EXAMINER
BONZO, BRYCE P

ART UNIT	PAPER NUMBER
2114	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/005,639	SAUNDERS, JIMMY D.
	Examiner	Art Unit
	Bryce P Bonzo	2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _20 August 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-18_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _04 December 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

FINAL REJECTION

Status of the Claims

Claims 1-3 are rejected under 35 USC §102.

Claims 4-18 are rejected under 35 USC §103.

Rejections under 35 USC §102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Price

(United States Patent Application Publication No 2002/0032762).

As per claim 1, Price discloses:

A general purpose test equipment system comprising:

hardware having common object request broker architecture software (p 4, ¶36) and

a mark-up language enabled input connected to the hardware (p 4, ¶37 XML).

As per claim 2, Price discloses:

2 A system as in claim 1 wherein the mark-up language enabled input generates a

machine-ingestible document appropriate for configuring and controlling test equipment

(p4, ¶37).

As per claim 3, Price discloses:

3. A system as in claim 1 wherein the mark-up language comprises XML (p4, ¶37 XML).

Rejections under 35 USC §103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price

(United States Patent Publication No. 2002/0032762).

As per claim 4, Price does not explicitly disclose:

wherein the mark-up language comprises SGML. Official Notice is given that SGML is

a widely known mark-up language which was an early competitor to XML. Thus it would

have been obvious to one of ordinary skill in the art at the time of invention to substitute

SGML in place of XML in order to provide for a wider market base, thus increasing the application the invention of Price can be used with.

As per claim 5, Price does not explicitly disclose:

wherein the mark-up language comprises HTML. Official Notice is given that HTML is a widely known mark-up language which was an early precursor to XML. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to substitute HTML in place of XML in order to provide for a wider market base, thus increasing the application the invention of Price can be used with.

As per claim 6, Price discloses:

6. A system as in claim 1 wherein the mark-up language enabled input comprises a mark-up language reader configured to receive a performance specification document and output a delimited configuration file (p4, ¶37 is clearly receiving XML inputs and outputting configuration data).

7. A system as in claim 6 wherein the reader selectively outputs a human readable document corresponding to the performance specification document (p6, ¶66).

Claims 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price (United States Patent Application Publication 2002/0032726) in view of Martens (United States Patent No. 6,618,629).

As per claim 8, Price discloses:

8. A system as in claim 6 wherein the performance specification document comprises:

an order of test operations to be performed on equipment, wherein the order of test operations is defined in mark-up language (p5, ¶46 :scheduling request),

a specification of system interfaces for the application of stimulus to and the collection of measurements from the system during test operations, wherein the specification is defined in mark-up language (p5, ¶49 and p6, ¶66),

a specification of units and values to be applied to the equipment during test operations, wherein the specification is defined in mark-up language (p6, ¶ 59: configuration parameters),

a specification of units and values to be measured during test operations (p5, ¶56: formatted input of XML is dumped into a system expected units),

a specification for collection of test results (p6, ¶66: using consol..simply; p6, ¶64: During...testing), and

a specification for storage of test results (p4, ¶39: preservation of work; p4, ¶40: present opportunity to archive).

Price does not disclose: an identification of a test system response to failure. Martens discloses this (column 8, lines 32-44). Martens provides a unified interface for testing and controlling a factory assembly line via XML. Defining the system response to an error, even if the response is simply reporting the error or logging it, provides the

maintainers of the device valuable information crucial for servicing a device: namely the device is not operating properly. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the identification of errors in the XML based system of Price to better alert the users of the device as to what an error is so that they may be notified.

Claims 9 is viewed as the methodological embodiment of the combination of claims 1 and 8 and is rejected accordingly.

Claims 10-12 are viewed as the methodological embodiment of the combination of claims 1 and 8 with dependents 2-5 respectively and are rejected accordingly.

13. A method as in claim 9 further comprising generating a human-readable document dependent upon said entering from the same XML source document used to generate the delimited configuration file (p6, ¶66: the GUI is a human readable document).

Claims 14-18 are viewed as the system for configuring tests claims in claim 9-13 and I rejected on the same grounds shown above.

Response to Applicant Arguments

Applicant clearly believes the Examiner in error and Examiner is unable to understand

the claimed invention. **As such, the Examiner strongly encourages the Applicant to**

file an Appeal Brief in order to expedite prosecution.

I. Applicant has argued that Price does not disclose a general purpose test system.

First, general purpose is only recited in the preamble and never referenced directly or

indirectly by the body of the claim. This relegates the phrase to functional descriptive

matter. The limitation does not breath life or essential matter into the claim and as such

the Examiner believes the rejection is proper on those grounds alone. Second, general

purpose is a very broad term. Price is designed for testing any number of conditions,

problems, or configuration of interest in a network. The network can be configured to

include or exclude any type or number of devices, link the devices in various manners

and force them to output errors to observe the result. Therefore, the Examiner feels

that Price is a general purpose tester for networks, as it can test for a multitude of

conditions are prescribed depending on what the user is interested in observing. The

Examiner has provided a reference which irrefutably contain CORBA, XML and

hardware. These are the only limitations recited in the claim. The remainder of

Applicant's remarks argue function or structure or intent not present in the claim.

II. Applicant argues that Price does not transform data. Price clearly takes a user's

input via a mouse on a GUI and transforms into an XML file is then stored in an archive.

When the appropriate time arrives that the XML file is removed from the archive and the information contained therein is provided to the various devices so they operate in a manner in accord with the test specification. As such the Examiner strongly believes Price meets the recited limitations of claim 2. ¶11, 63 and 64 all show XML/NDL being used to manage the test lab of Price. As the data was originally provided as a drawing on a monitor and then is provided in XML, the Examiner believes a transformation has occurred.

III. See above.

IV. See above.

V. Applicant has argued that Price in combination with Martens do not disclose outputting configuration data. Price discloses the use of XML to receive data and pass the data on to an archive to await a scheduled test time. This data is the configuration of test lab desired to test what ever the customer wishes to test. The data was entered into a Java program running an XML parser. The data was then stored in an archive which was not the XML parser. Thus the configuration data was received by the parser and then output into the archive.

VI. Applicant argues that Price does not disclose the content specifies test requirements and their dynamic nature. At no point in the claims is a performance specification

defined as having the test requirements and their dynamic nature. As such, Applicant has argued limitations not present in the claims. Furthermore, Price output from the XML parser a specification of how the user wishes the lab to perform when the user's scheduled use occurs.

VII. Applicant has argued there is no definition of how the requests to use the lab are order amongst themselves. Applicant acknowledges that Price does perform ordering global/local schedulers. First the Examiner points out that the nature of the ordering of the requests is not claimed and as such hard-coding into software is perfectly acceptable. Second, claim 8 does not directly or indirectly claim the temporal ordering argued.

VIII. Applicant argues that claim 9-13 arguments are allowable based on similar reasoning to that of claims 1-8. The Examiner points out that claim 9-13 do not recite a general purpose testing system and therefore can not possibly be on the same reasoning.

IX. Applicant argues that neither Price nor Marten alone or in combination disclose a single mark-up language enabled input capable of generating two discrete formats having distinctly different functionality. First, the GUI displays the user's configuration setting for the test lab and interprets via an XML parser the desired setting into XML which is stored in an archive on a hard disk. A picture on a monitor showing a

configuration and an XML document stored on a hard disk are two different functions. However, this limitation is not recited in claim 13.

X. Applicant argues that claim 14-18 arguments are allowable based on similar reasoning to that of claims 9-13. The Examiner points out that claim 14-18 do not recite a general purpose testing system and therefore can not possibly be on the same reasoning.

Final Disposition

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
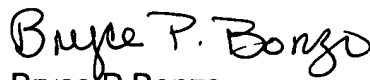
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bryce P Bonzo
Examiner
Art Unit 2114